

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

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|-----------------------------|---|----------------------|
| DONALD DEWITT DUVALL, |) | |
| Register No. 110391, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | No. 05-4287-CV-C-SOW |
| |) | |
| JEFFERSON CITY CORRECTIONAL |) | |
| CENTER, et al., |) | |
| |) | |
| Defendants. |) | |

ORDER

On October 5, 2005, the United States Magistrate Judge recommended dismissing plaintiff's claims. The parties were advised they could file written exceptions to the recommendation, pursuant to 28 U.S.C. § 636(b)(1)(C). No exceptions have been filed.

A review of the record convinces the court that the recommendation of the Magistrate Judge is correct and should be adopted.

Inmates who file an appeal with the United States Court of Appeals for the Eighth Circuit are required to pay the full \$255.00 appellate filing fee, regardless of the outcome of the appeal. *Henderson v. Norris*, 129 F.3d 481, 484 (8th Cir. 1997). The filing of a notice of appeal is considered a consent by the inmate to allow prison officials to deduct an initial partial appellate filing fee and later installments from the prisoner's account.

IT IS, THEREFORE, ORDERED that plaintiff's claims are dismissed, pursuant to 28 U.S.C. § 1915A, for failure to state a claim for which relief can be granted and because plaintiff's request for release must be brought in habeas corpus proceedings after exhausting his state remedies.

/s/Scott O. Wright

SCOTT O. WRIGHT

Senior United States District Judge

Dated: 12-9-05